

Message Text

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C O N F I D E N T I A L BERLIN 1481

FOLLOWING CABLE SENT ACTION BONN INFO MOSCOW PARIS LONDON
NATO AUG 28 REPEATED FOR YOUR INFO QUOTE

C O N F I D E N T I A L BERLIN 1481

E.O. 11652: GDS

TAGS: PFOR, PGOV, WB, GW, GE

SUBJECT: FRG-GDR TALKS ON LEGAL RELATIONS

REF: BONN 12199

1. ALTHOUGH IT DOES NOT RAISE DIRECT USG INTEREST, WE
ARE STRUCK BY BLECH COMMENT, PARA 3 REFTL, THAT FRG
WILL BE BASING ITS CASE FOR INCLUSION OF WEST BERLIN
IN FRG-GDR LEGAL RELATIONS AGREEMENT ON ANNEX IV A.2. (B)
OF QA. IT IS OF COURSE TRUE THAT QA PROVIDES THAT FRG
INTERNATIONAL AGREEMENTS MAY BE EXTENDED TO WEST BERLIN,
WE WOULD HAVE THOUGHT, HOWEVER, THAT FAR MORE COGENT
ARGUMENT FOR FRG TO USE IN THIS INSTANCE WOULD BE
THAT JOINT DECLARATION ON BERLIN MADE BY TWO PARTIES
TO BASIC TREATY PROVIDES THAT FRG AND GDR ARE IN
ACCORD THAT AGREEMENTS ENVISAGED IN SUPPLEMENTARY
PROTOCOL TO ARTICLE 7 OF BASIC TREATY (WHICH
INCLUDES SUBJECT OF LEGAL RELATIONS) MAY BE EXTENDED
TO WEST BERLIN AND LEGAL RELATIONS IS PRACTICAL MATTER
TO WHICH BERLIN RELEVANCE IS APPARENT.

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2. USE OF QA ARGUMENTATION ADDS NOTHING TO FRG CASE AND IN FACT APPEARS TO GO COUNTER TO OCCASIONAL FRG EFFORT TO DEMONSTRATE THAT AGREEMENTS WITH GDR ARE SOMETHING OTHER THAN INTERNATIONAL AGREEMENTS OF SORT THAT FRG ENTRRS INTO WITH ANY OTHER STATE. FRG, OF COURSE, HAS GONE BACK AND FORTH ON THAT POINT, BUT ONLY LAST MONTH SENAT REQUESTED AND OBTAINED IN PRINCIPLE ALLIED KOMMANDATURA APPROVAL FOR SUBMISSION ON INNER-GERMAN AGREEMENTS FOR ALLIED CONSIDERATION UNDER COVER OF SLIGHTLY DIFFERENT FORM MEMORANDUM THAN IS CUSTOMARILY USED FOR INTERNATIONAL AGREEMENTS AND IN ONLY NINE COPIES RATHER THAN 15 SPECIFIED BY BKC/L(52)6. (NEW MEMORANDUM SPEAKS OF INCLUSION FO BERLIN IN AGREEMENTS OF FRG WITH GDR RATHER THAN IN "INTERNATIONAL AGREEMENTS" OF FRG.)

3. IN OUR JUDGMENT A POTENTIAL PROBLEM IS THAT BLECH COMMENT MAY BE INDICATION THAT, IF GDR REMAINS NEGATIVE, FRG MAY WISH TO BE IN POSITION TO ASSERT THAT INABILITY TO OBTAIN INCLUSION OF WEST BERLIN IN LEGAL RELATIONS AGREEMENT WITH GDR WAS ATTRIBUTABLE TO INADEQUACY OF QA RATHER THAN TO LACK OF PERSISTENCE ON PART OF BONN NEGOTIATORS.KLEIN

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